

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. D-99-0008
Graceville Livestock Market, Inc.)
and Gerald Mason,)
Respondents) Decision

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the financial condition of respondent Graceville Livestock Market, Inc. does not meet the requirements of the Act, and that the respondents wilfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondents admit the jurisdictional allegations in paragraph I of the complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Graceville Livestock Market, Inc., hereinafter referred to as the corporate respondent, is a corporation organized and existing under the laws of the State of Florida. Its business mailing address is 512 White Ave., P.O. Box 6, Graceville, FL 32440.

2. The corporate respondent is, and at all times material herein was:

- (a) Engaged in the business of conducting and operating the Graceville Livestock Market, Inc., stockyard, a posted stockyard under the Act;
- (b) Engaged in the business of buying and selling livestock in commerce on a commission basis;
- (c) Engaged in the business of buying and selling livestock in commerce for its own account; and
- (d) Registered with the Secretary of Agriculture as a market agency to buy and sell livestock on a commission basis and as a dealer to buy and sell livestock for its own account.

3. Gerald Mason, hereinafter referred to as the individual respondent, is an individual whose business mailing address is 512 White Ave., P.O. Box 6, Graceville, FL 32440.

- (a) The individual respondent at all times material herein was:
 - (1) President and sole stockholder of the corporate respondent;
 - (2) Responsible for the direction, management and control of the corporate respondent;
 - (3) A market agency and dealer within the meaning of this term under the Act and subject to the Act; and
 - (4) Not individually registered with the Secretary of Agriculture as a dealer or market agency.

Conclusions

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

Respondent Graceville Livestock Market, Inc., its officers, directors, agents and employees, successors and assigns, directly or through any corporate or other device, and respondent Gerald Mason, his agents and employees, directly or through any corporate or other device, in connection with their operations subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to deposit in their Custodial Account for Shippers' Proceeds within the times prescribed in Section 201.42 of the regulations (9 C.F.R. §201.42) amounts equal to the outstanding proceeds receivable due from the sale of consigned livestock;
2. Failing to otherwise maintain the Custodial Account for Shippers' Proceeds in strict conformity with the provisions of Section 201.42 of the regulations (9 C.F.R. §201.42);
3. Failing to pay from the custodial account any obligations of livestock consignors for which funds have been deducted from the gross proceeds received from the sale of consigned livestock before the remitting of net proceeds to livestock consignors; and
4. Using funds received from the sale of consigned livestock for purposes of their own or for any purpose other than payment to consignors of the amount due from the sale of their livestock and the payment of lawful marketing charges.

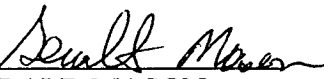
Respondent Graceville Livestock Market, Inc., and respondent Gerald Mason as its alter ego , are jointly and severally assessed a civil penalty in the amount of Six Thousand dollars

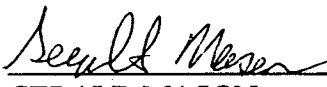
(\$6,000.00). Three Thousand dollars of this civil penalty is payable immediately and the Three Thousand dollar balance shall be paid within the next sixty days.


The provisions of this Order shall become effective on the sixth day after service of this order on the Respondents.

Copies of this decision shall be served upon the parties.

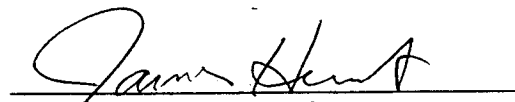
GRACEVILLE LIVESTOCK MARKET, INC.

By 
GERALD MASON
President


GERALD MASON
Respondents


ERIC PAUL
Attorney for Complainant

Issued this 1st day of February 2000


Administrative Law Judge